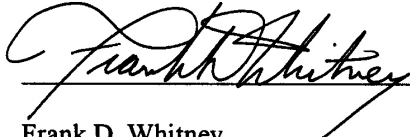


of Appeals for the Fourth Circuit has clearly held that Booker “does not apply retroactively to cases on collateral review.” United States v. Morris, 429 F.3d 65, 66 (4th Cir. 2005). As a result, Booker “is not available for post-conviction relief for federal prisoners . . . whose convictions became final before Booker (or Blakely) was decided.” Id. at 72. Thus, Petitioner’s reliance on Booker in support of his § 2255 motion is misplaced.

As stated above, United States v. Booker cannot be used to collaterally attack a sentence in a § 2255 motion. Therefore, Petitioner’s Motion is DENIED.

IT IS SO ORDERED.

Signed: October 30, 2007



Frank D. Whitney
United States District Judge

